

ESTTA Tracking number: **ESTTA578957**

Filing date: **12/26/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Saj, Inc
Granted to Date of previous extension	12/28/2013
Address	6955 South York Street Centennial, CO 80122 UNITED STATES

Attorney information	Ellen Reilly The Reilly Intellectual Property Law Firm 1325 East 16th Ave Denver, CO 80218 UNITED STATES reilly@iplawdenver.com
----------------------	--

Applicant Information

Application No	85832006	Publication date	10/29/2013
Opposition Filing Date	12/26/2013	Opposition Period Ends	12/28/2013
Applicant	Soma Restaurant Group, Inc. 246 Second Street, Suite B San Francisco, CA 94105 CANADA		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Staple foods, namely, bread, pita bread, sauces, and marinades
Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Restaurant services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3782634	Application Date	05/18/2009
Registration Date	04/27/2010	Foreign Priority Date	NONE
Word Mark	SAJ		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2009/08/25 First Use In Commerce: 2009/08/25 Breads and dipping sauces Class 043. First use: First Use: 2009/08/25 First Use In Commerce: 2009/08/25 Restaurant services

Attachments	77739700#TMSN.jpeg(bytes) NOTICE OF OPPOSITION-SAJ1.pdf(127401 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ellen Reilly/
Name	Ellen Reilly
Date	12/26/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>SAJ, INC.,</p> <p style="text-align:center">Opposer</p> <p style="text-align:center">v.</p> <p>SOMA RESTAURANT GROUP, INC.,</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No.:</p> <p>Mark: LADY AND THE SAJ</p> <p>Serial No.: 85/832006</p> <p>Filed: January 24, 2013</p>
--	--

NOTICE OF OPPOSITION

Opposer, SAJ, INC, a Colorado corporation, located and doing business at least at 6955 South York Street, Centennial, Colorado 80122 believes that it is being damaged, and will be damaged, by the registration of the mark “LADY AND THE SAJ” shown in Application Serial No. 85/832006, and hereby opposes same. As grounds for opposition, Opposer alleges that, upon actual knowledge with respect to Opposer’s own acts, and upon information and belief as to other matters:

Opposer and its SAJ Mark

1. Opposer, SAJ, INC is a Colorado corporation, having a principal place of business at 6955 South York Street, Centennial, Colorado 80122.
2. Opposer owns several restaurants and is in the process of opening additional restaurants under the trademark SAJ. Opposer also sells various goods under the trademark SAJ.
3. Opposer is the owner of Registration No. 3,782,634 for SAJ for “breads and dipping sauces” in Class 30 and “restaurant services” in Class 43 (“Opposer’s

Mark”). Opposer’s Mark was registered on April 27, 2010, with a date of first use of August 25, 2009.

4. By virtue of Opposer’s extensive use and promotion of Opposer’s Mark, Opposer has established valuable goodwill in the mark, and the public has come to associate the “SAJ” mark with the Opposer. As such, the public has come to know “SAJ” as an indication of certain goods as well as restaurant services that originate from Opposer.

5. By virtue of the use of Opposer’s Mark, and the high quality of products and services rendered under the mark, the Opposer’s Mark has achieved brand name recognition of the goods and services produced and sold under the name “SAJ”. As a result, consumers referring to Applicant’s goods and services are likely to believe that Applicant’s Mark originates with Opposer.

Applicant’s Mark

6. Applicant SOMA RESTAURANT GROUP, INC., is a California corporation, having a principal place of business at 246 Second Street, Suite B, San Francisco, California.

7. Applicant is the listed owner of Application No. 85/832,006 for LADY AND THE SAJ for “staple foods, namely, bread, pita bread, sauces and marinades” in Class 30 and “restaurant services” in Class 43 (“Applicant’s Mark”). Applicant filed this application based upon an ‘intent to use’ the mark.

COUNT 1: LIKELIHOOD OF CONFUSION

8. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 7.

9. Opposer has priority based on its prior valid and subsisting registration set forth in Paragraph 3 above. Opposer has used Opposer's Mark in commerce prior to the filing date of the opposed Application Serial No. 85/832,006, and any date of first use that may be alleged by Applicant.

10. Applicant's LADY & THE SAJ mark is substantially similar in sound, appearance, and connotation to Opposer's Mark. Further, the goods and services identified in the opposed application are identical or closely related to the goods of Opposer, and flow in the same or related channels of trade.

11. Applicant's LADY & THE SAJ mark so resembles Opposer's registered mark as to be likely, when used in connection with Applicant's goods and services, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, s amended, 15 U.S.C. §1052(d).

12. Opposer's Mark was first used in August of 2009. On the actual filing date of its application, Applicant had constructive notice of ownership of Opposer's Mark and had knowledge, or upon reasonable inquiry would have had knowledge and therefore had constructive knowledge, if not actual knowledge, of the Opposer's Mark in connection with its goods and sought to trade off of the goodwill and reputation in said mark when adopting the LADY & THE SAJ Mark opposed herein.

13. As a result of the similarity between Opposer's Mark and Applicant's Mark and the highly related nature of the goods and services with each party's respective

mark, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods and services.

WHEREFORE, Opposer believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/832,006, and requests that the opposition be sustained, and that registration to Applicant be refused.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 18-0875.

Respectfully Submitted

/Ellen Reilly/

Dated: December 26, 2013

By: Ellen Reilly
THE REILLY INTELLECTUAL PROPERTY
LAW FIRM, P.C.
1325 East 16th Avenue
Denver, CO 80218
Telephone: (303) 839-8700
Facsimile: (303) 830-2016

Attorneys for Opposer
SAJ, INC.

